

# EXHIBIT A



PROJECT ON  
GOVERNMENT OVERSIGHT

Exposing Corruption. Exploring Solutions.

United States Immigration & Customs Enforcement, FOIA Office  
500 12th Street, SW, Stop 5009  
Washington, DC 20536-5009  
Submitted via email to: ice-foia@dhs.gov

Re: Freedom of Information Act Request

To whom it may concern,

As a member of the news media, I am making this request under the Freedom Of Information Act ("FOIA"), 5 U.S.C. § 552. Please provide records that are maintained by your agency or for your agency by a government contractor in any format.

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Please also note that the personal emails and text messages are not exempt from FOIA when used for official business, even if the agency requires such messages to be forwarded to official accounts. (See: *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149-50 (D.C. Cir. 2016).

**Please provide the following records in a digital format:**

- Any communications between government officials and representatives of Amazon or AWS regarding facial recognition technology or Rekognition.
- Any procurement or contracting documents related to Rekognition or other real-time facial recognition tools, including but not limited to Requests For Proposals, invoices, and licensing agreements.
- Any marketing materials or other information describing real-time facial recognition tools such as Rekognition received by government officials, including but not limited to emails, advertisements, specification documents, and presentations.
- Any training or policy and procedures materials related to Rekognition or other real-time facial recognition tools.
- Any records or analysis assessing accuracy of real-time facial recognition tools such as those provided by Amazon or AWS, or plans to audit and review accuracy of real-time facial recognition tools provided by Amazon or AWS.

"Rekognition" is a service marketed by Amazon subsidiary Amazon Web Services(AWS) and in testing by some local law enforcement agencies, as attested to on Amazon's web site.

In addition to the records requested above, POGO also requests records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched and any tracking sheets used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

I request a waiver of all costs associated with fulfilling this submission pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure of the requested records will further the "public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest" of the requester, the Project On Government Oversight (POGO). Specifically, POGO intends to use the requested records to highlight for the public federal government interest in real-time facial recognition technology—this technology poses exceptional privacy risks and, in the hands of law enforcement, constitutional concerns. If the request for a fee waiver is denied, please contact me about any incurred expenses prior to supplying the requested records.

Please see the following fee waiver statements.

**The subject of the request:**

POGO is requesting records which will inform readers about how the federal government's interest in real-time facial recognition technology being offered by the private sector. We believe these records will allow us to better inform the public about the state of government efforts to use this technology and whether privacy, constitutional, and other concerns are being raised or addressed.

**The informative value of the information to be disclosed:**

The information to be disclosed is likely to contribute to an increased public understanding of government activities, as it relates to powerful and troubling technological capabilities that federal law enforcement may be considering harnessing. If used, this technology would be externally directed toward the public and the public has a great interest in whether the government is taking steps to utilize this technology. The information released would help the public evaluate federal law enforcement efforts in this arena.

**The contribution to an understanding of the subject by the public likely to result from disclosure:**

POGO investigates, exposes, and seeks to remedy systemic abuses of power and mismanagement in the federal government. Founded in 1981, POGO is a politically independent, nonprofit watchdog that promotes a government that is accountable to the citizenry. POGO disseminates information about its activities to the public, policymakers, and the media via email, direct mail,



and its websites which receives over 100,000 unique views per month. The records provided by your agency will be used for the following activities, which are publicly available: publication by email and on POGO websites; publication in reports and newsletters issued by POGO; publication in the newsletters of affiliated nonprofit organizations; efforts to educate Congress, the Executive Branch, and other policymakers; or in conjunction with other members of the news media.

This information will advance what is known about federal law enforcement interest in and use of real-time facial recognition technology and what concerns the government may have about its use.

**The significance of the contribution to public understanding:**

Disclosure of the records is likely to contribute significantly to the public's understanding of federal government efforts to use real-time facial recognition technology and how advanced, or not, efforts are to use specific technology developed by and marketed by Amazon. The requested records are not currently publicly available, and they will bring a unique perspective to the public discussion surrounding government surveillance.

**The existence and magnitude of a commercial interest:**

POGO does not charge for access to its web site, reports, newsletters, or other publications. In addition, we do not directly profit from increased viewership of our website, as it is advertisement-free.

**The primary interest in disclosure:**

POGO has no financial interest in the requested information as stated above. The primary interest in disclosure is that of the public interest.

If this request is denied in full or in part, please cite each exemptions pursuant to 5 U.S.C. § 552(b) that justifies each denial. Please bear in mind that the foreseeable harm standard must be met before an exemption applies. If an exemption applies, however, please consider exercising the agency's discretionary release powers to disclose the records. Any such action supports the presumption of "openness" on which FOIA is based upon. Additionally, please release all reasonably segregable portions of the records that do not meet an exemption. 5 U.S.C. § 552(b).

I look forward to your response, including an individualized tracking number, within 20 days of the receipt of this request, unless, in the case of "unusual circumstances," the time limitation is "extended by written notice." 5 U.S.C. § 552(a)(6)(B). I am aware that all fees will be waived if specified time limits are not met. 5 U.S.C. § 552(a)(4)(A)(viii). I have a right to appeal if this request is wholly or partially denied or if the agency fails to respond within 20 days, and that, if successful, a federal district court may assess "reasonable attorney fees and other litigation costs." 5 U.S.C. § 552(a)(4)(E).

Please do not hesitate to call me at (202) 347-1122 to see if I can clarify the request or otherwise expedite and simplify your efforts. Thank you for your prompt attention to this matter.

Sincerely,

Jake Laperruque  
Senior Counsel  
jlaperruque@pogo.org  
1100 G St. NW, Suite 500  
Washington, DC 20005